

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ALTON BENN,)	
)	
Petitioner,)	
)	
v.)	1:23CV765
)	1:11CR127-2
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On September 13, 2023, the United States Magistrate Judge's Recommendation and Order was filed and notice was served on the parties in accordance with 28 U.S.C. § 636(b). Objections were filed within the time limits prescribed by section 636. (Doc. 441.)

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objections were made and has made a de novo determination in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Petitioner's "Rule 60(b)" motion is construed as an attempt by Petitioner to file a second or successive § 2255 action.

IT IS FURTHER ORDERED that this action is DISMISSED due to Petitioner's failure to obtain certification from the Fourth Circuit as required by 28 U.S.C. §§ 2244 and 2255 and Fourth

Circuit Local Rule 22(d) and that, there being neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability will not issue.

/s/ Thomas D. Schroeder
United States District Judge

March 27, 2024